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Before The
FEDERAL COMMUNICATIONS COMMISSION MAY 19 1997
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Administration of the North)

American Numbering Plan)

Carrier Identification Codes (CICs))

CC Docket No. 92-237

TO: The Commission

PETITION FOR RECONSIDERATION

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The Competitive Telecommunications Association ("CompTel") respectfully submits its Petition for Reconsideration in the above-captioned proceeding.¹ CompTel is a nationwide industry association of the nation's competitive telecommunications carriers, with over 200 members including large nationwide carriers and scores of smaller regional carriers.

CompTel requests that the Commission reconsider its decision that the transition for the conversion from three digit Feature D carrier identification codes ("CICs") to four digit Feature Group D CICs will end on January 1, 1998. CompTel submits that a January 1, 1998 deadline does not give long distance carriers a reasonable period to educate consumers about the new dialing patterns or to complete reprogramming or upgrading of thousands of pieces of equipment nationwide to accommodate the conversion. Furthermore, such a short transition period does not give long distance carriers sufficient time to coordinate the conversion with incumbent local exchange carriers, many of whom still have not updated their equipment to accept the new seven digit CACs (*i.e.*, four digit CICs). Finally, the short nine-month transition unfairly penalizes those carriers who have made significant investments into networks that utilize three digit CICs, and advertising campaigns using three digit CICs, based upon the Commission's proposed six

¹ Second Report and Order, CC Docket No. 92-237, 1997 Westlaw 174495, FCC 97-125, Released April 11, 1997 (hereinafter the "Order").

year transition period.

For these reasons, CompTel requests that the Commission extend the transition period for a period of two years to January 1, 2000. A two-year extension of the transition is necessary to prevent disruption of service to consumers, ensure a seamless transition to four digit CICs, and give carriers a reasonable period of time to realize a fair return on their investment in the current three digit CIC regime.

I. THE COMMISSION'S ORDER EFFECTIVELY GIVES CARRIERS A TRANSITION PERIOD OF ONLY NINE MONTHS, NOT TWO YEARS AND NINE MONTHS

The Commission states in the Order that it is shortening the proposed transition period from six years to two years and nine months.² In fact, the practical effect of the Order will be to give many carriers a transition period of only nine months (not two years and nine months) to complete a massive equipment reprogramming and updating program, to coordinate with ILECs, and to educate their customers. The Commission justifies a shorter transition period on the theory that the industry has been on notice for three years that a transition would be necessary. The Commission stated:

By January 1, 1998, the period during which carriers and equipment owners should have been aware that three digit CICs would need to be replaced will have been over eight years. Furthermore, the transition itself will have lasted almost three years. . . . [S]ince May 1994, when the Commission's NPRM was published in the Federal Register, the industry was on notice that changes to accommodate expansion to four digit Feature Group D CIC would likely begin to be necessary the following year.³

What the Commission fails to recognize is that being aware of a future need to implement a

² Order, 1997 WL 174495 at ¶ 4.

³ *Id.* at ¶ 37.

conversion, or even having notice of the need to *begin* a transition at some point, is not the same as being put on notice that the conversion would need to be completed by a date certain.

While the total transition period may equal two years and nine months, many carriers have not yet begun the conversion process. For those carriers, the effective transition period will be only nine months. Those carriers are in no way at fault for not beginning the transition sooner. Many ILECs have not yet converted their switches to accept four digit CICs, and numerous long distance carriers made the prudent decision to wait until there is more widespread conversion within the ILECs' networks before beginning to transition their customer base.⁴ Given the Commission's proposed six-year transition period, many long distance carriers saw no need to press ILECs to convert their networks more quickly or to begin their own conversion efforts.

Further, although the Commission first gave notice in May, 1994 that a conversion process would have to be completed at some point, the Commission did not require parties to begin that process immediately. Indeed, the Commission did not formally adopt final rules mandating a conversion from three digit to four digit CICs until last month, and it was possible, however unlikely, that the Commission would not adopt final rules requiring all carriers to implement such a conversion. In general, the Commission should be reluctant to assume that the industry will immediately expend resources to begin implementing rules that the FCC has not yet formally adopted. It is legitimate for carriers to wait for adoption of final rules prior to expending resources on the transition. Carriers are entitled to assume that the Commission will give the industry a reasonable transition period measured from the date the Commission adopts final rules.

⁴ As discussed in more detail in Section III, *infra*, contrary to the Commission's assumption that ILECs have already converted their networks to accept four digit CICs, there are a number of ILECs that still do not offer permissive dialing.

Particularly given the Commission's proposed six-year transition schedule, there was no reason for carriers to assume that they had to make any specific amount of progress in converting their systems to four digit CICs during the period before the Commission adopted final rules. Rather, it was reasonable for carriers to formulate business plans consistent with the resources available to them and the expected timetable to implement the conversion during the latter part of the transition period. While some carriers may have made the changes as quickly as possible, other carriers may have planned to do so with a phased in approach, with a certain percentage of their equipment converted each year over the six year period. Still other carriers, for various business and technical reasons, may have planned to convert most of their equipment and initiate consumer education efforts during the latter part of the transition period. The practical effect of the Commission's Order is that many carriers are left with nine months (now less than that) to reprogram or upgrade their customers' equipment to accommodate four digit CICs and to educate consumers about new dialing patterns.

II. THE COMMISSION'S NEW TRANSITION SCHEDULE WILL BE UNREASONABLY BURDENSOME FOR MANY LONG DISTANCE CARRIERS AND THEIR CUSTOMERS

In the Order, the Commission did not fully consider the onerous burden the shortened transition schedule will place upon long distance carriers and their customers. CompTel is aware that several long distance carriers, including some of the largest carriers, rely extensively upon automatic dialers installed at their customers' premises.⁵ It is CompTel's understanding that one

⁵ A dialer is a piece of equipment at the customer's location, not part of the PBX (although some PBXs do have dialers), that is programmed to automatically dial the CAC when the customer dials 1+. Dialers are used by carriers in states that have allowed intraLATA
(continued...)

carrier has a customer base that employs as many as 50,000 dialers nationwide, 35,000 of which have not yet been converted. In order for that carrier to convert to four digit CICs, it must identify the customers who use dialers and then send technicians to reprogram the dialers at the customers' offices. In the event the carrier cannot complete that herculean task by January 1, 1998, its customers whose dialers were not reprogrammed will be without long distance service as of that date.

This is just one example among many of the unreasonable burden that the Commission's shortened transition schedule would place upon long distance carriers. It is economically infeasible for carriers to devote the resources necessary to convert all customers to four digit CICs by January 1, 1998. The burden is particularly great now given the significant resources that carriers will devote this year to the negotiation of interconnection agreements with incumbent local exchange carriers, the implementation of those agreements, and the Commission's new access charge and universal service policies. Ultimately, if the transition schedule is not lengthened, it becomes a very real possibility that many consumers will be unable to complete long distance telephone calls as of January 1, 1998.

This problem is compounded by the fact that nine months is just not enough time to educate consumers who, over the years, have become accustomed to dialing five digits (a five digit CAC which incorporates a three digit CIC) in order to place their long distance calls. The public needs more time to assimilate the new information and the new dialing patterns. If not enough time is allotted for this transition, there will be widespread customer confusion. The

⁵(...continued)

competition, but only on a 10XXX basis. Dialers thus eliminate the need for the customer to dial 10XXX.

result will be that consumers will suddenly experience difficulty in placing long distance calls, using their carrier of choice, or will find themselves unable to do so. The Commission can avoid a potential disaster by lengthening the transition period in order to give carriers and consumers sufficient time to adjust to the change from three to four digit CICs.

III. THE COMMISSION ERRONEOUSLY ASSUMED THAT ILECS HAVE CONVERTED THEIR EQUIPMENT TO ACCEPT FOUR DIGIT CICS

The Commission appears to have based its shortened transition period upon the assumption that ILECs have already converted their networks to accept four digit CICs. That assumption is incorrect. Numerous ILECs, especially small ILECs in rural or suburban areas, have not reprogrammed or upgraded their equipment in order to accept seven digit CACs.⁶ Until that occurs, the end-user subscribers served by those ILECs will not be able to place long distance calls using seven digit CACs.

The failure of certain ILECs to convert their networks to the new CIC regime is relevant to the Commission's Order in at least two ways. First, it explains in part why long distance carriers have not been more aggressive in converting their own customer bases to four digit CICs. It is not prudent to expend resources on a conversion program when a significant portion of the customer base would be unable to make long distance calls under the new dialing patterns. Second, the failure of numerous ILECs to convert their networks will make it impossible for long

⁶ For example, in various cities in Michigan -- including Constantine and White Pigeon - GTE has not yet made the necessary equipment upgrades. The same is true for GTE in other regions, and for Ameritech in parts of its region. CompTel submits that there likely are numerous other ILECs who have not yet made the necessary conversions. That OPASTCO and other parties representing small ILECs supported the proposed six-year transition period is consistent with CompTel's understanding that ILECs have not completed the conversion process.

distance carriers to use fully the nine-month transition period that the Commission has established. A long distance carrier cannot convert a customer until the ILEC is prepared to accept the four digit CIC. If ILECs wait until the last minute to complete their changes, long distance carriers will be placed in the untenable position of having to complete massive equipment reprogramming and upgrading in the space of a few weeks or even days. This clearly would place an unfair burden on long distance carriers and create an unacceptable risk that consumers would lose their ability to place long distance telephone calls for some period of time.

IV. CARRIERS WHO HAVE MADE SIGNIFICANT INVESTMENTS IN THREE DIGIT CICS WILL SUFFER SEVERE FINANCIAL HARDSHIP UNDER THE ORDER

The Commission, in shortening the proposed transition period by three years to January 1, 1998 without warning, failed to consider the financial impact that its decision will have on those carriers who have made significant investments in three digit CIC calling capability. For example, it is CompTel's understanding that carriers who recently entered the U.S. long distance market have invested significant resources into dial-around networks that today utilize three digit CIC calling capability. Those carriers made such investments in part based upon the Commission's proposed six-year transition period, as well as the extent to which competitors today still rely primarily upon three digit CICS. Rather than risk competitive disadvantage with a four digit CIC, those carriers invested in networks using three digit CICS with the understanding that they would have three years before they would need to convert to a four digit CIC. In addition to the sums invested in the networks, these carriers made significant additional expenditures on the advertising necessary to promote the use of their three digit CIC (and five digit CAC).

The Commission's Order effectively cut the legs out from under those carriers, and threatens them with the loss of most if not all of their investment into dial-around networks using three digit CICs. Not only have those carriers lost the benefit of their initial investment, they are now faced with the need to invest even more money into equipment upgrades, new advertising campaigns, and consumer education programs. These losses and unexpected monetary outlays could well result in carriers exiting the market they have so recently entered, a result which the Commission plainly did not intend when it ordered the transition process to end by January 1, 1998.

CONCLUSION

For the foregoing reasons, the Commission should extend the transition period for four digit CICs to January 1, 2001.

Respectfully submitted,
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